



27 AUG 2008

EMPK & SHILOH, LLP
C/O LANDON IP, INC.
1700 DIAGONAL ROAD
SUITE 450
ALEXANDRIA, VA 22314

In re Application of GURMAN et al
U.S. Application No.: 10/599,598
PCT Application No.: PCT/IL2005/000369
Int. Filing Date: 03 April 2005
Priority Date Claimed: 04 April 2004
Attorney Docket No.: 1054/17

For: APPARATUS AND METHOD FOR THE
DETECTION OF ONE LUNG INTUBATION
BY MONITORING SOUNDS

DECISION

This is in response to applicant's "Renewed Request for Status under 37 CFR 1.42" filed 07 August 2008.

BACKGROUND

On 03 April 2005, applicant filed international application PCT/IL2005/000369, which claimed priority of an earlier United States application filed 04 April 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 13 October 2005. The thirty-month period for paying the basic national fee in the United States expired on 04 October 2006.

On 03 October 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 October 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 November 2007, applicant filed a declaration executed by four of the five named inventors.

On 20 March 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration was not executed by the fifth inventor.

On 14 April 2008, applicant filed a request for status under 37 CFR 1.42.

On 09 July 2008, this Office mailed a decision dismissing the 14 April 2008 request for status.

On 07 August 2008, applicant filed the present renewed request for status under 37 CFR 1.42.

DISCUSSION

The present request for status states that the fifth inventor Arnon Cohen is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 07 August 2008 is in compliance with 37 CFR 1.497 and 37 CFR 1.42.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 03 April 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 07 August 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459